

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA) CR. No. 24-CR- 235
)
 v.) (Judge Mundy
)
 LEON MARTIN,)
 Defendant)

INFORMATION

THE UNITED STATES ATTORNEY CHARGES: FILED
SCRANTON

I. Introduction

At times material to this Information:

SEP 04/2024
PER [Signature]
DEPUTY CLERK

A. Emission Systems and Regulations

1. Congress enacted the Clean Air Act (CAA) "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C. § 7401(b)(1). In enacting the Clean Air Act, Congress found that "the increasing use of motor vehicles ... has resulted in mounting dangers to the public health and welfare." 42 U.S.C. § 7401(a)(2). Congress instructed the Environmental Protection Agency (EPA) to establish regulations and standards to control emissions from motor vehicles which cause or contribute to air pollution which may reasonably be

anticipated to endanger public health or welfare. 42 U.S.C. § 7521(a)(1).

2. The CAA defines a "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway." 42 U.S.C. § 7550; see also 40 C.F.R. § 85.1703 .17. For any new motor vehicle or motor vehicle engine, the manufacturer is required to certify to EPA that any emission control system incorporated in a motor vehicle or motor vehicle engine does not emit air pollutants in excess of applicable regulations.

3. Vehicles emit an array of pollutants, and EPA emission standards control the allowable emission levels of nitrogen oxides (NO_x), hydrocarbons, carbon monoxide, carbon dioxide, particulate matter, and certain toxic chemicals. NO_x pollution contributes to the formation of harmful smog and soot, exposure to which is linked to a number of respiratory and cardiovascular-related health effects as well as premature death. Children, older adults, people who are active outdoors (including outdoor workers), and people with heart or lung disease are particularly at risk for health effects related to smog or soot exposure. Nitrogen dioxide formed by NO_x emissions can aggravate respiratory diseases, particularly asthma, and may also contribute to asthma

development in children. Diesel engines, in particular, are responsible for large quantities of NO_x emissions in the United States.

4. The EPA has established maximum air pollution emission standards for various classes of motor vehicle engines, including diesel engines. In order to meet those required emissions standards, motor vehicle manufacturers employ various control systems in motor vehicles. For diesel-fueled motor vehicles, these emission control devices may include a Diesel-Particulate Filter (DPF), Exhaust Gas Recirculation (EGR), Diesel Oxidation Catalyst (DOC) and Selective Catalytic Reduction (SCR). Such components are controlled and calibrated by computer software that is incorporated into the vehicle's Engine Control Module (ECM).

5. Onboard Diagnostic Systems (OBDs) monitor emission control devices and detect, identify, and record any malfunctions of these devices. Pursuant to 42 U.S.C. § 521(m)(1), the EPA was authorized to create regulations requiring manufacturers to install onboard diagnostic systems (OBD) on vehicles and engines to ensure that emission standards were met. The EPA has implemented regulations requiring their use on light duty vehicles. If the OBD detects a malfunction, it

records a diagnostic trouble code and illuminates a malfunction indicator light (MIL) on the vehicle dashboard. The OBD and ECM may also prompt a driver to correct a problem by altering vehicle performance, such as putting the vehicle in "limp home mode," in which the vehicle can only be operated at low speeds. The purpose of the OBD is to work in tandem with emission-related engine hardware to ensure emissions controls are functioning appropriately.

6. Hardware emissions control devices and OBDs can be disabled on commercial vehicles bearing heavy-duty diesel engines through the use of aftermarket defeat devices. A defeat device is software or hardware that bypasses or renders inoperable the vehicle's emission control system. Motivations for this conduct include desires for greater engine performance by increasing a vehicle's horsepower and consequently racing and/or towing capacity; improved fuel efficiency at the cost of increased emissions; for novelty functions such as "rolling coal", -- in which a vehicle can be made to emit huge clouds of heavy particulate pollution; or simply to avoid required maintenance of vehicle emissions control devices.

7. The illegal tampering with and manipulation of emission

control systems is commonly known in the industry as "deletion."

8. The EPA Air Enforcement Division (AED) estimates that deletion can result in an increase of 20 times more air pollution emissions from a single diesel pickup truck. In fact, AED estimates that emissions controls were removed from more than 550,000 diesel pickup trucks in the last decade resulting in 570,000 tons of excess nitrogen oxides (NO_x) and 5,000 tons of excess particulate matter (PM) emissions over the lifetime of those vehicles.

9. Deletion often involves two aspects: the physical alteration of the engine related emissions control hardware and the software alteration of the code in the ECM, thus tampering with and rendering inaccurate the OBD. After the emission control hardware is physically removed, in order for the vehicle to remain operational, the OBD must be altered by using "tuners," which are devices that carry electronic files/software coding ("tunes") designed to alter vehicle performance by changing and overriding the vehicle's original computer programming, tricking the OBD system and allowing the vehicle to continue to operate as if emission controls were still functional. Tune files can be loaded into tuning devices and can be saved to a computer's hard drive, a portable

hard drive, or uploaded to a cloud server where it could be easily downloaded by a second party, and even emailed as an attachment.

10. The proliferation of aftermarket defeat devices and tuning persists as a result of a community-like atmosphere where enthusiasts share tips and knowledge on social media sites.

B. The Defendant's Conduct

11. The defendant, **LEON MARTIN**, operated from his home in Lititz, PA. Martin disabled and/or removed emission control components, and tampered with the OBDs required under the CAA for the vehicles of customers throughout the United States including customers within the Middle District of Pennsylvania, customers who had trucks from which factory installed emission control devices had been removed. His tuning services enabled those deleted trucks to operate without emission control devices. His customers included Frock Brothers Trucking, Inc., and H.M. Kelly, Inc., New Oxford, Adams County, PA.

COUNT 1

12. From on or about November 13, 2018, through on or about December 28, 2018, in the Middle District of Pennsylvania, and elsewhere, the defendant, **LEON MARTIN**, did knowingly tamper with,

and render inaccurate, and aid and abet in doing so, monitoring devices and methods required to be maintained under the Clean Air Act, that is, the onboard diagnostic systems of diesel trucks, including those belonging to Frock Brothers Trucking, Inc., and H.M. Kelly, Inc., New Oxford, PA as listed below:

VIN Number	Truck Year	Truck Make	Truck Model	
1XKAD49X5EJ391748	2014	Kenworth	T6	12/13/18
1XKAD49X3EJ391750	2014	Kenworth	T6	12/5/18
1XKAD49X5EJ391751	2014	Kenworth	T6	11/13/18
1XKAD49X0EJ391754	2014	Kenworth	T6	11/26/18
1XKAD49X2EJ391755	2014	Kenworth	T6	12/28/18
1XKAD49X6EJ391757	2014	Kenworth	T6	12/28/18
1XKAD49X8EJ391758	2014	Kenworth	T6	12/22/18
1XKAD49XXEJ391759	2014	Kenworth	T6	12/20/18

In violation of Title 42, United States Code, Section 7413(c)(2)(C).

THE UNITED STATES ATTORNEY FURTHER CHARGES:

COUNT II

Count I of this Information is incorporated in this count as overt acts committed in furtherance of this conspiracy.

12. From on or about November 13, 2018, through on or about December 28, 2018, in the Middle District of Pennsylvania, and elsewhere, the defendant, **LEON MARTIN**, did intentionally and knowingly conspire with individuals known and unknown to the United States at Frock Brothers Trucking, Inc., to tamper with, and render inaccurate, monitoring devices and methods required to be maintained under the Clean Air Act, that is, the onboard diagnostic systems of diesel trucks, belonging to Frock Brothers trucking, Inc., and H.M. Kelly, Inc., New Oxford, PA as listed below:

VIN Number	Truck Year	Truck Make	Truck Model	
1XKAD49X5EJ391748	2014	Kenworth	T6	12/13/18
1XKAD49X3EJ391750	2014	Kenworth	T6	12/5/18
1XKAD49X5EJ391751	2014	Kenworth	T6	11/13/18
1XKAD49X0EJ391754	2014	Kenworth	T6	11/26/18
1XKAD49X2EJ391755	2014	Kenworth	T6	12/28/18
1XKAD49X6EJ391757	2014	Kenworth	T6	12/28/18
1XKAD49X8EJ391758	2014	Kenworth	T6	12/22/18
1XKAD49XXEJ391759	2014	Kenworth	T6	12/20/18

In violation of Title 18, United States Code, Section 371, and Title 42, United States Code, Section 7413(c)(2)(C).

GERARD M. KARAM
United States Attorney

A handwritten signature in black ink, appearing to read 'W. A. Behe', is written over a horizontal line.

WILLIAM A. BEHE
Assistant United States Attorney

Date: 9/4/2024